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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

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11 RODERICK G. COOLEY,
12 Plaintiff,
13 v.
14 JOHN SUTTON,
15 Defendant.

Case No. 1:19-cv-01804-JDP

ORDER DENYING PLAINTIFF'S MOTION FOR
APPOINTMENT OF COUNSEL

ECF No. 3

17 Plaintiff Roderick G. Cooley is a state prisoner proceeding without counsel in this civil
18 rights action brought under 42 U.S.C. § 1983. On December 30, 2019, plaintiff filed a motion
19 requesting appointed of counsel. ECF No. 3. Plaintiff submits that he is unable to afford counsel.
20 *Id.*

21 Plaintiff does not have a constitutional right to appointed counsel in this action, *see Rand*
22 *v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh'g en*
23 *banc*, 154 F.3d 952 (9th Cir. 1998), and this court lacks the authority to require an attorney to
24 represent plaintiff, *see Mallard v. U.S. District Court for the Southern District of Iowa*, 490 U.S.
25 296, 298 (1989). This court may request the voluntary assistance of counsel. *See* 28 U.S.C. §
26 1915(e)(1); *Rand*, 113 F.3d at 1525. However, without a means to compensate counsel, we will
27 seek volunteer counsel only in exceptional circumstances. In determining whether such

1 circumstances exist, “the district court must evaluate both the likelihood of success on the merits
2 [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
3 legal issues involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks and citations omitted).
4 We cannot conclude that exceptional circumstances requiring the appointment of counsel are
5 present here. The allegations in the complaint are not unusually complicated and, based on a
6 review of the record, plaintiff appears able to articulate his claims adequately. In addition, at this
7 stage in the proceedings, plaintiff has not demonstrated a likelihood of success on the merits.

8 Accordingly, plaintiff’s motion for the appointment of counsel, ECF No. 24, is denied
9 without prejudice. The court may revisit this issue at a later stage of the proceedings if the
10 interests of justice so require.

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12 IT IS SO ORDERED.

13 Dated: January 13, 2020


UNITED STATES MAGISTRATE JUDGE

17 No. 205.
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